

AFFAIRS OF THE FIVE CIVILIZED TRIBES, ETC.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

THE DRAFT OF A BILL "TO MAKE FINAL DISPOSITION OF THE
AFFAIRS OF THE FIVE CIVILIZED TRIBES IN THE INDIAN TER-
RITORY, AND FOR OTHER PURPOSES."

FEBRUARY 20, 1904.—Referred to the Committee on Indian Affairs and ordered to
be printed.

DEPARTMENT OF THE INTERIOR,
Washington, February 20, 1904.

SIR: I inclose herewith a draft of a bill entitled "An act to make
final disposition of the affairs of the Five Civilized Tribes in the Indian
Territory, and for other purposes."

This draft has been prepared to include provisions which are believed
by the Commission to the Five Civilized Tribes to be necessary for the
speedy closing up of the affairs of these Indians. It is believed by
this Department that the provisions made are essential to the suc-
cessful prosecution and early closing of the work in Indian Territory,
and it is therefore earnestly recommended that the matter receive
early and favorable action by Congress.

The question of obtaining further legislation for the protection of
the springs at the village of Sulphur, in the Chickasaw Nation, from
pollution is under investigation by the Department and will be made
the subject of a report to Congress at an early date.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

AN ACT to make final disposition of the affairs of the Five Civilized Tribes in Indian
Territory, and for other purposes.

SECTION 1. No application for enrollment as a citizen or freedman,
except as hereinafter provided, of either the Choctaw, Chickasaw,
Cherokee, Creek, or Seminole tribes of Indians in Indian Territory, shall

be received by the Commission to the Five Civilized Tribes after the date of the approval of this act, regardless of whether or not the name of the applicant may be identified upon some citizenship roll heretofore prepared by the tribal authorities, or of the fact that he may have heretofore been admitted to citizenship in either of said tribes by an action of some court or commission, or of the fact that he may claim the right to enrollment by reason of intermarriage with a member of either of said tribes; and no person shall be enrolled unless application for enrollment shall have been made heretofore by himself or by some other person in his behalf to said Commission: *Provided, however,* That the said Commission is hereby authorized for sixty days after the date of the approval of this act to receive and consider applications for the enrollment of children born prior to September twenty-eighth, nineteen hundred and two, to recognized and enrolled citizens of the Choctaw and Chickasaw tribes of Indians, or born prior to September first, nineteen hundred and two, to recognized and enrolled citizens of the Cherokee Nation: *And provided further,* That the said Commission is hereby authorized for sixty days after the date of the approval of this act, to receive applications for enrollment as citizens of the Choctaw or Chickasaw tribes of Indians, by persons who were admitted to citizenship in either of said tribes under the provisions of the act of Congress approved June tenth, eighteen hundred and ninety-six, entitled "An act making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-seven, and for other purposes."

SEC. 2. In determining the rights of applicants for enrollment as citizens of the Cherokee Nation, the Commission to the Five Civilized Tribes and the Secretary of the Interior shall not consider as evidence in favor of any applicant the fact that the name of such applicant may be identified upon the roll known as the eighteen hundred and ninety-four strip payment roll, and being the roll upon which a per capita payment of two hundred and sixty-five dollars and seventy cents was made, the said roll being notoriously fraudulent and corrupt, and the Cherokee National Council having expressly refused to accept that roll as an authentic roll of citizens by blood of the Cherokee Nation.

SEC. 3. The suit of T. M. Buffington and others, against Henry L. Dawes and others, members of the United States Commission to the Five Civilized Tribes, being a proceeding to enjoin said Commission from enrolling as freedmen citizens of the Cherokee Nation any persons whose names do not appear on the authenticated roll of citizens of said nation of eighteen hundred and eighty, or who are not descendants of some person whose name appears upon that roll, if an appeal be taken to the United States court of appeals for Indian Territory, shall be advanced on the docket of that court and determined at the earliest time practicable. Either party may within ninety days after the decision of the said court of appeals appeal therefrom direct to the Supreme Court of the United States, where the case shall be advanced on the docket and determined at the earliest time practicable. If no appeal be taken as herein provided the decision of the court of appeals shall be final.

SEC. 4. Section six of the act of Congress approved February twenty-eighth, nineteen hundred and two, entitled "An act to grant the right of way through the Oklahoma Territory and the Indian Territory to the Enid and Anadarko Railway Company, and for other purposes," is

hereby amended to read as follows: "That said company shall cause maps showing separately the route of its located line through each of the nations of said Territory to be filed in the office of the Secretary of the Interior, and with the Commission to the Five Civilized Tribes similar maps for that portion of its located line in Indian Territory, and with the principal chief of each of the nations or tribes through whose lands said railway may be located maps for that portion located through the lands of such nation or tribe, respectively, and after the filing of said maps no claim for a subsequent settlement and improvement upon the right of way shown by said maps shall be valid as against said company: *Provided*, That when a map showing any portion of said railway company's located line is filed as herein provided for said company shall commence grading said located line within six months thereafter or such location shall be void; and said location shall be approved by the Secretary of the Interior in sections of not more than twenty-five miles before construction of such section shall be begun."

SEC. 5. All lands which are by section fifty-nine of an act entitled "An act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," approved July first, nineteen hundred and two, directed to "be sold at public auction for cash," and all other lands and deposits of like character in said nations segregated under any act of Congress, shall be sold under direction of the Secretary of the Interior, after due advertisement, upon sealed proposals, under regulations to be prescribed by the Secretary of the Interior and approved by the President, with authority to reject any or all proposals.

So much of said section as makes provision for the appointment and duties of "a commission composed of three persons" be, and the same is hereby, repealed.

All expenses, inclusive of necessary clerical help in the Department of the Interior, connected with and incident to such sale, shall be paid from the funds of the Choctaw and Chickasaw tribes on deposit in the Treasury of the United States.

SEC. 6. The standing pine timber on lands of the Choctaw Nation, principally valuable by reason of such timber thereon, not exceeding one million two hundred and fifty thousand acres, to be designated by the Commission to the Five Civilized Tribes, under the direction and approval of the Secretary of the Interior, shall be sold under sealed bids, at any time before March fourth, nineteen hundred and six, upon terms and under rules and regulations to be prescribed by the Secretary of the Interior, and the funds realized therefrom, after deducting the necessary expenses incident to such sale, shall be paid into the Treasury of the United States to the credit of the Choctaw and Chickasaw tribes: *Provided*, That the lands from which timber is to be sold may be selected for allotment as other allottable lands, but to be taken subject to the sale and removal of the standing pine timber thereon: *Provided, further*, That any member of said tribes living upon any of said lands and owning substantial improvements placed thereon prior to July first, nineteen hundred and two, may select therefrom not exceeding forty acres, to include such improvements, as a portion of his homestead, and have the same allotted to him, and the timber standing upon lands thus selected and allotted shall not be subject to sale under the provisions of this section.

SEC. 7. In the Choctaw, Chickasaw, and Seminole nations public

highways or roads, two rods in width, being one rod on each side of the section line, may be established along all section lines without any compensation being paid therefor; and all allottees, purchasers, and others shall take title to such lands subject to this provision; and public highways or roads may be established elsewhere whenever necessary for the public good, the actual value of the land taken elsewhere than along section lines to be determined under the direction of the Secretary of the Interior, and to be paid for from the funds of such tribes, respectively, and if buildings, or other improvements are damaged in consequence of such public highways or roads, whether along section lines or elsewhere, such damages, during the continuance of the tribal governments, shall be determined and paid in the same manner. All expenses incident to the establishment of public highways or roads in the Creek, Cherokee, Choctaw, Chickasaw, and Seminole nations, including clerical hire, per diem, salary, and expenses of viewers, appraisers, and others, shall be paid under the direction of the Secretary of the Interior, from the funds of the tribe or nation in which such public highways or roads are established. If any person, firm, or corporation who shall obstruct any public highway or road and who shall fail, neglect, or refuse for a period of ten days after notice, to remove or cause to be removed any and all obstructions from such public highways or roads, such person, firm, or corporation shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not exceeding ten dollars per day for each and every day in excess of said ten days which said obstruction is permitted to remain: *Provided, however*, That notice of the establishment of public highways or roads need not be given to allottees or others except in cases where such public highways or roads are obstructed, and every person obstructing such public highway or road, as aforesaid, shall also be liable in a civil action for all damages sustained by any person who has in any manner whatever been damaged by reason of such obstruction.

SEC. 8. Choctaw and Chickasaw citizens and freedmen may rent their allotments when selected, for strictly nonmineral purposes, for a term not to exceed one year for grazing purposes, and for a period not to exceed five years for agricultural purposes, but without any stipulation or obligation to renew the same. Seminole allottees may lease their allotments for nonmineral purposes, as provided by the act of Congress approved July first, eighteen hundred and ninety-eight, entitled "An act to ratify and confirm the agreement between the Dawes Commission and the Seminole Nation of Indians." Agricultural and grazing leases may, with the consent of the Secretary of the Interior, be made by Choctaw, Chickasaw, and Seminole citizens, for longer periods, and leases for mineral purposes may also be made with the consent of the Secretary of the Interior, and not otherwise. Any lease violative hereof shall be absolutely null and void.

SEC. 9. The United States court in Indian Territory, western district, is hereby given authority to separate and set apart from any allotment heretofore made to the heirs of a deceased allottee in the Creek Nation a forty-acre tract as a homestead in all cases where it may appear that the said deceased allottee left one or more heirs the issue of his body born since May 25, 1901: *Provided*, That no sale shall be made of any land in an allotment coming within the purview

of this section until a homestead shall have been designated as herein provided.

SEC. 10. All patents or deeds to allottees in the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes to be hereafter issued shall issue in the name of the allottee, and if any such allottee shall have died before such patent or deed shall have become effective the title to the land designated therein shall inure and become vested in his successor or successors according to the provisions of the several acts of Congress applicable to the respective tribes as if the patent or deed had issued to the deceased person during his life, and all patents heretofore issued, where the allottee died before the same became effective, shall be given like effect.

SEC. 11. Until after the expiration of five years after the date of patent, Choctaw, Chickasaw, Cherokee, and Seminole citizens may sell their alienable lands, with the consent of the Secretary of the Interior, and not otherwise: *Provided, however,* That nothing in this act shall be construed to limit the right of Choctaw and Chickasaw citizens to sell their alienable lands under the provisions of the act of Congress approved July first, nineteen hundred and two, entitled "An act to ratify an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes."

SEC. 12. Immediately after the approval of this act the Secretary of the Interior shall furnish the principal chief of the Seminole Nation with blank patents or deeds necessary for the conveyance of allotments, homesteads, and town lots in the Seminole Nation, Indian Territory, and the said principal chief shall thereupon proceed to execute, under his hand and the seal of the nation, allotment and homestead patents or deeds to allottees, and town lot patents or deeds to purchasers of town lots. Such patents or deeds shall be approved by the Secretary of the Interior, and when so approved shall be recorded by the Commission to the Five Civilized Tribes, without expense to the grantee, which record shall have like effect as other public records, and such patents or deeds, when so executed, approved and recorded, shall convey full legal title. After said patents or deeds shall have been so recorded by the said Commission, they shall be delivered to the principal chief of the Seminole Nation for delivery to the grantees: *Provided,* That each Seminole citizen shall designate to the Commission to the Five Civilized Tribes as a homestead one tract of forty acres out of the land heretofore selected as his allotment, which land so designated as a homestead shall be inalienable and nontaxable during the lifetime of the allottee, not exceeding twenty-one years from the date of the patent or deed, and separate patent or deed shall issue for said homestead; and if for any reason a homestead shall not be designated by or on behalf of any member of said tribe before the preparation of patent or deed for his allotment it shall be the duty of said Commission to make such designation.

SEC. 13. The Commission to the Five Civilized Tribes is hereby directed to allot the unallotted surplus lands of the Seminole Nation in equal portions, as nearly as may be, and without regard to the appraised value, among the children living on the date of the approval of this act born since December thirty-first, eighteen hundred and ninety-nine, to duly enrolled and approved citizens of said tribe, and such allotments shall be controlled in respect to the selection of homesteads,

the issuance of patents or deeds, the alienation of the land, and in all other respects by the rules applicable to other Seminole allotments.

SEC. 14. The sum of five hundred thousand dollars set apart by the act of Congress approved July first, eighteen hundred and ninety-eight, entitled "An act to ratify the agreement between the Dawes Commission and the Seminole Nation of Indians," as a permanent school fund for the support of schools in the Seminole Nation, shall on the first day of July, nineteen hundred and four, be returned to and thereafter considered as a part of the general funds of said tribe and subject to any disposition provided to be made of such general funds.

The Secretary of the Interior is hereby authorized to distribute, as soon as practicable after the approval of this act, under rules and regulations to be prescribed by him, two hundred dollars per capita to the duly enrolled and approved members of the Seminole tribe, the said moneys to be taken from the funds of said tribe now held in trust by the United States.

A sufficient sum of money is hereby appropriated and set apart, out of the funds of the Seminole Nation in the United States Treasury, which shall be added to the interest on the remaining invested funds of the tribe for the years nineteen hundred and four and nineteen hundred and five, so that there will be distributed to the members of said tribe for each of these years not less than one hundred and three thousand five hundred dollars.

SEC. 15. The United States court for the western district of Indian Territory is hereby authorized and directed to appoint some reliable person or persons or corporation or corporations, who shall give bond with good and sufficient security in such amount as may be fixed by said court, and which person or corporation shall, without being required to give separate bond in each case, act as guardian, curator, administrator, or executor of the persons or estates of citizens of the Seminole Nation for any reason not properly represented and not likely to be so represented. Such person or corporation shall be appointed, qualify, and act in all other particulars and receive like compensation as other guardians, curators, administrators, or executors.

SEC. 16. From and after the date of the approval of this act any person desecrating any cemetery or graveyard, or any grave, in the Seminole Nation shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding one hundred dollars, and shall stand committed until such fine and costs are paid, such commitment not to exceed one day for every ten dollars of said fine and costs.

SEC. 17. The act of Congress approved March third, nineteen hundred and three, entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various tribes for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes," in so far as it relates to the surveying and platting of lands for town sites by private parties and the alienation of lands for townsite purposes without restriction, shall apply to and be in full force and effect in the Seminole Nation: *Provided*, That hereafter it shall be unlawful for any person, firm, or corporation to lay out, survey, or plat any tract of land into town lots, or to attempt to dispose of lands for townsite purposes in either the Choctaw, Chickasaw, Creek, Cherokee, or Seminole nations, Indian Territory, except under the direction of the Secretary of the Interior, or unless authority first be obtained to

alienate the lands as provided by the said act of March third, nineteen hundred and three; and any person violating this provision shall, upon conviction, be fined not more than five hundred dollars, or be imprisoned not exceeding three months, or both, at the discretion of the court.

SEC. 18. The lands in the Choctaw and Chickasaw nations reserved from allotment under the provisions of the act of Congress approved July first, nineteen hundred and two, entitled "An act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," the lands in the Cherokee Nation reserved from allotment under the provisions of the act of Congress approved July first, nineteen hundred and two, entitled "An act to provide for the allotment of the lands of the Cherokee Nation, for the disposition of townsites therein, and for other purposes," the lands in the Creek Nation reserved from allotment under the provisions of the acts of Congress approved March first, nineteen hundred and one, entitled "An act to ratify and confirm an agreement with the Muscogee or Creek tribe of Indians, and for other purposes," and June thirtieth, nineteen hundred and two, entitled "An act to ratify and confirm a supplemental agreement with the Creek tribe of Indians, and for other purposes," and the lands in the Seminole Nation reserved from allotment under the provisions of the act of Congress approved July first, eighteen hundred and ninety-eight, entitled "An act to ratify the agreement between the Dawes Commission and the Seminole Nation of Indians," shall be conveyed by patent or deed, blank forms for which shall be furnished by the Secretary of the Interior, executed under the hand and the seal of the nations, respectively, by the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation jointly, the principal chief of the Cherokee Nation, the principal chief of the Creek Nation, and the principal chief of the Seminole Nation, respectively, to the person, corporation, body, or organization entitled to receive the same under the provisions of this or any other act of Congress.

SEC. 19. Should the principal chief or the governor of either the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribe of Indians for any reason fail or refuse to execute patents or perform any other acts as provided in this or previous acts of Congress, the Secretary of the Interior is hereby authorized to act in the stead of such principal chief or governor so failing or refusing, and any patent or other instrument so executed by said Secretary shall have the same force and effect as if executed by such principal chief or governor.

SEC. 20. The Commission to the Five Civilized Tribes shall procure, as far as possible, all patents or deeds heretofore issued for town lots in towns in the Choctaw and Chickasaw nations, and record the same. All town-lot patents or deeds in towns in said nations hereafter issued, as well as patents to Choctaw and Chickasaw allottees, and all other patents or deeds issued under this or other acts of Congress, shall be approved by the Secretary of the Interior and be recorded by the Commission to the Five Civilized Tribes, without expense to the grantee, all of which records shall have like effect as other public records. Choctaw and Chickasaw allotment patents and town-lot patents or deeds heretofore issued and not approved by the Secretary of the Interior shall also be recorded and have the same effect as if approved. *All patents* for lands in either the Choctaw, Chickasaw, Cherokee, Creek, or Seminole nations, when *approved* by the Secre-

tary of the Interior and recorded by the Commission to the Five Civilized Tribes, shall convey full legal title.

SEC. 21. After the approval of this act it shall be unlawful for any official recorder or any of his deputies, agents, or employees, of any recording district in the Indian Territory, to file, record, or place on record any deed or patent purporting to convey lands allotted to any member or freedman of either of the Five Civilized Tribes until after such lands have become alienable without restrictions, unless such deed bears the approval of the Secretary of the Interior. Any person violating the provisions hereof shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not exceeding one hundred dollars, in the discretion of the court, together with costs.

SEC. 22. All revenue of whatever character belonging to the Choctaw, Chickasaw, and Seminole tribes shall be collected by an officer appointed by the Secretary of the Interior, under rules and regulations to be prescribed by said Secretary.

SEC. 23. All tribal courts in the Choctaw, Chickasaw, and Seminole nations shall be abolished at the expiration of thirty days from the approval of this act, and no officer of said courts shall have any authority to do or perform any act heretofore authorized by any law in connection with said courts, or to receive any pay for the same; and all civil actions pending in any such courts shall be transferred to the United States courts in said nations by filing with the clerk of such United States court the original papers in the cause.

SEC. 24. No act, ordinance, or resolution of the Choctaw, Chickasaw, or Seminole tribes, except resolutions for adjournment, shall be of any validity until approved by the President of the United States. When such acts, ordinances, or resolutions passed by the legislature of the Chickasaw tribe, or the council of the Choctaw or Seminole tribe, shall be approved by the governor of the Chickasaw Nation or the principal chief of either of the other tribes, respectively, it shall be the duty of the national secretary of such tribe to forward them, duly certified and sealed, through the United States Indian inspector located in Indian Territory, to the Secretary of the Interior for submission to the President of the United States, who shall, within thirty days after the receipt by him of any such act, ordinance, or resolution, approve or disapprove the same. Said acts, ordinances, or resolutions, when so approved or disapproved, shall be returned to the tribe enacting the same.

SEC. 25. Should the national legislature of the Chickasaw Nation or the national council of the Choctaw, Cherokee, Creek, or Seminole nations fail, neglect, or refuse to appropriate funds necessary for the efficient conduct of the schools of said nations, respectively, the Secretary of the Interior may direct the use of a sufficient amount of any of the funds in the Treasury of the United States belonging to the nation so failing, neglecting, or refusing to make the necessary appropriation, to pay all necessary expenses for the efficient conduct of such schools. All funds appropriated by said nations for the support of said schools shall be used under the direction of the Secretary of the Interior for the education of citizens of the respective tribes or nations, and said schools shall be conducted under rules and regulations prescribed by said Secretary.

SEC. 26. Any of the funds of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes on deposit in the Treasury of the United States may be used by the Secretary of the Interior, with the approval

of the President of the United States, for any purpose deemed by him to be for the best interests of the tribe, except that the Choctaw and Chickasaw coal and asphalt royalty fund shall be used, while the tribal governments continue, only for the education of members of the tribe.

SEC. 27. The Secretary of the Interior shall cause to be paid all just indebtedness of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes existing at the date of the approval of this act, which may have been lawfully contracted, and warrants therefor regularly issued upon the several funds of said tribes, and also warrants drawn by authority of law hereafter and prior to the dissolution of the tribal governments, such payments to be made from any funds in the United States Treasury belonging to said tribes, and all such indebtedness of the said tribes shall be paid in full before any pro rata distribution of the funds of the tribes shall be made. The Secretary of the Interior shall make such payments at the earliest time practicable, and he shall make all needed rules and regulations to carry this provision into effect.

SEC. 28. Upon the dissolution of the tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes of Indians all lands now owned and held by said tribes, respectively, and the buildings thereon, the disposition of which has not been otherwise provided for herein or in other other acts of Congress, shall be appraised under the direction of the Secretary of the Interior and shall be paid for by the United States at the appraised value, and upon such payment being made by depositing the money in the Treasury of the United States to the credit of the respective tribes the title to such lands and buildings shall immediately vest in the United States and shall be disposed of in such manner as Congress shall hereafter provide.

SEC. 29. When allotments as provided by this act and other acts of Congress have been made to all members and freedmen of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes the residue of lands in each of said nations not reserved or otherwise disposed of shall be sold under sealed bids, under rules and regulations and on terms to be prescribed by the Secretary of the Interior; and the proceeds from the sale of such residue of lands in each of said nations used, as far as may be necessary, for the equalization of allotments to that tribe; and the balance, if any there be, shall be paid into the United States Treasury to the credit of that tribe of Indians. Patents for lands sold under the provisions of this section shall be executed, approved, recorded, and delivered with like effect as herein provided for other patents.

SEC. 30. When all excess lands belonging, respectively, to the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes of Indians have been sold and the proceeds applied as far as may be necessary to the equalization of allotments, and the balance of moneys arising from such sale, or from any other source whatever, have been paid into the United States Treasury to the credit of said tribes of Indians, respectively, and when all the just charges against the funds of the respective tribes have been deducted therefrom the remaining funds shall be distributed per capita to the members, or to the heirs of members, of the several tribes, respectively, who shall have received allotments of lands. Such per capita distribution shall be made under rules and regulations to be prescribed by the Secretary of the Interior.

SEC. 31. All Acts and all parts of Acts of Congress inconsistent with the provisions of this act are hereby repealed.

